

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,

Case No.: 2:17-cr-00142-JAD-VCF

Plaintiff

Order Denying Motion

v.

[ECF No. 233]

Brian Keith Wright,

Defendant

Brian Wright was found guilty of assault on a federal officer in 2019,¹ and the Ninth Circuit affirmed his conviction.² Wright sought habeas relief under 28 U.S.C. § 2255 in February 2022.³ Because his motion contained no legal argument for modification or vacatur of his sentence and the record conclusively established that he is not entitled to the relief he seeks, I denied his motion without directing a response from the government.⁴ Six months later, Wright filed a “motion requesting this court to grant 2255 due to the government’s consent” in the assault case, arguing that “the government conceded to the facts within [his] 2255 due to its 8 months of complete silence.”⁵ I denied that motion too, explaining that I did not direct the government to respond because Wright’s habeas petition was plainly meritless.⁶

¹ ECF No. 172.

² ECF No. 221.

³ ECF No. 223.

⁴ ECF No. 228.

⁵ ECF No. 230.

⁶ ECF No. 232. Wright has appealed this order to the Ninth Circuit. ECF No. 234. On December 14, 2022, the Ninth Circuit issued an order stating that “all subsequent filings [in the appeal] will be stayed pending the district court’s determination on the certificate of appealability.” ECF No. 235; *see also United States v. Wright*, Ninth Circuit Court of Appeals

On October 21, 2022, Wright filed a “motion requesting district court to adhere to F.R.A.P and notice of denial of access to the court.”⁷ In it, he claims that he filed the same § 2255 motion in three of his federal criminal cases but that it did not hit the docket in two of those three cases.⁸ He blames the government, the Clerk of Court, and the prison in which he is incarcerated for his predicament.⁹

But Wright’s habeas motion was filed only in this case because he included only this case number in the motion’s heading:¹⁰

IN UNITED STATES DISTRICT COURT		FILED	SERVICES
DISTRICT OF Nevada		FEB 28 2022	
		CLERK US DISTRICT COURT DISTRICT OF NEVADA	
Brian K. Wright		BY:	DEPUTY
petitioner		Case No. 2:17-cr-00142-JAD-VCf	
v.		Motion to vacate, Set aside	
United States of America		or correct a Sentence.	
Respondent		Motion under 28 U.S.C. 2255	

If Wright wishes to challenge his various convictions, he must file a separate habeas petition in each case. As Wright has been previously warned, “any motions [that] he files need to have the

Case No. 22-16912. I find that Wright does not meet the lenient standard to grant a certificate of appealability for his habeas motion or his “motion requesting this court to grant 2255 due to the government’s consent,” so I deny him one.

⁷ ECF No. 233.

⁸ *Id.* at 2.

⁹ *Id.* at 2–3.

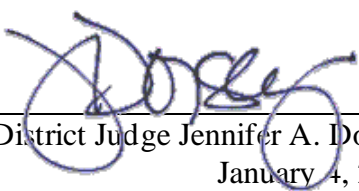
¹⁰ ECF No. 223.

1 correct case number in the caption so they can be properly filed.”¹¹ It is Wright’s
2 responsibility—not the court’s or the government’s—to properly label his motions and ensure
3 that they end up in the correct case. More importantly, Wright’s habeas petition was filed in this
4 case and has been denied. Because Wright’s motion fails to seek any relief in this case that this
5 court can grant, I deny it.

6 **Conclusion**

7 **IT IS THEREFORE ORDERED** that Brian Wright’s motion “requesting district court
8 to adhere to FRAP” [ECF No. 233] is **DENIED**.

9 **IT IS FURTHER ORDERED** that a **certificate of appealability** for this court’s
10 previous orders denying Wright’s § 2255 motion [ECF No. 223] and his motion “requesting this
11 court to grant 2255 due to government’s consent” [ECF No. 232] is **DENIED**. **The Clerk of**
12 **Court is directed to SEND a copy of this order to the Clerk of Court for the United States**
13 **Court of Appeals for the Ninth Circuit.**

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15 
16 U.S. District Judge Jennifer A. Dorsey
17 January 4, 2023
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¹¹ See ECF No. 141 (minutes of proceedings).